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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,132	02/28/2005	Terrence E Hogan	P02039US2A	2691

7590 07/27/2007  
John M Vasuta  
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1200 Firestone Parkway  
Akron, OH 44317

EXAMINER
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RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

MAIL DATE	DELIVERY MODE
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07/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/526,132

**Applicant(s)**

HOGAN ET AL.

**Examiner**

Roberto Rábago

**Art Unit**

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,9-11,13 and 15 is/are rejected.
- 7) ☒ Claim(s) 2,5,8,12 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/30/2007</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Applicant's election with traverse of group I, claims 1 and 4-7, in the reply filed on 5/7/2007 is acknowledged. Following a search of the elected group, the remaining claims are joined for examination, and the requirement for restriction is withdrawn.

### ***Information Disclosure Statement***

2. References 5 and 105 have not been considered because applicants have not cited the correct patent number/date/patentee information, and therefore the intended references cannot be determined.

### ***Claim Objections***

3. Claim 2 is objected to because in line 6, "s" should be "is".  
Claim 8 is objected to because in line 1, "here" should be "where".

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3, 9-11, 13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The specification does not include a description of a "green tire component," and therefore the intended scope of claim 3, and claims 9-11, 13 and 15 by dependency, are indefinite. It is noted that the art occasionally uses the term "green" to mean "uncured;" however, the specification is silent on the intended meaning in this case.

### ***Double Patenting***

6. Claims 1, 3, 6, 7, 9 and 15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 7,153,919. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims recite a functional polymer terminated by a thiazoline group (see claims 1, 7, 14, 16). The patented claims further suggest the required polymer (claim 3), fillers (claim 18) and resulting vulcanized tire component (claim 20). One of ordinary skill in the art would be motivated to select a thiazoline terminating group because patentee has suggested same. Although the claims do <sup>not</sup>~~not~~ specifically recite the forming and vulcanizing process steps recited in claim 3, the claimed process would be obvious because the claims recite the process for forming the functional polymer, the vulcanized composition, and the formed tire component. Furthermore, official notice is taken that from the recitation of "tire component" in patented claim 20, one of ordinary skill in the art would be motivated to select the conventional tire Tg of claim 6.

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7. Claims 1 and 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 11-13 of copending Application No. 11/607,690. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims recite a functional polymer terminated by a thiazoline group and the required polymer. One of ordinary skill in the art would be motivated to select a thiazoline terminating group because patentee has suggested same.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claims 1, 4, 6 and 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 15, 16 and 18 of copending Application No. 11/331,663. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims recite a functional polymer terminated by a thiazoline group and the required polymer. Although the copending claims do not recite the limitations of claims 6 and 7, official notice is taken that from the recitation of "tire tread" one of ordinary skill in the art would be motivated to select the conventional tire polymers of claim 7 and the conventional tire Tg of claim 6. One of ordinary skill in the art would be motivated to select a thiazoline terminating group because patentee has suggested same.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Comments on ISR/IPER***

9. The International Search Report has indicated several X references against a prior version of the claims filed during the international phase. However, as described in the International Preliminary Examination Report, none of the references discloses or suggests a functional polymer having the terminating agents as currently claimed.

10. Claims 2 and 8, and claims 12 and 14 as dependent thereon, are objected to for the reason set forth above, but would be allowable upon correction of the cited informalities.

Claims 5 objected to as being dependent upon a rejected base claim, but would be allowable upon resolution of the double patenting rejection as set forth above, or if rewritten in independent form.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

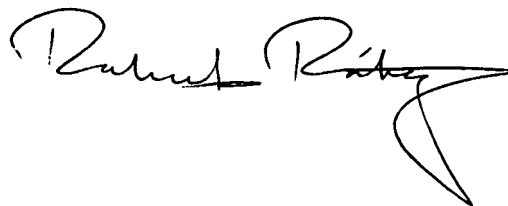
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Roberto Rábago  
Primary Examiner  
Art Unit 1713

RR  
July 22, 2007

A handwritten signature in black ink, appearing to read 'Roberto Rábago', with a stylized flourish at the end.